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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,330	10/18/2001	Robert D. Burgess	BRF-100-B	6594

7590 10/12/2004

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EXAMINER

ILAN, RUTH

ART UNIT PAPER NUMBER

3616

DATE MAILED: 10/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,330

Applicant(s)

BURGESS, ROBERT D.

Examiner

Ruth Ilan

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/11/02 and the correction of 7/3/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment of May 17, 2004 is acknowledged. An action on the merits follows below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 3, and 8-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is not antecedent basis in the specification as originally filed for the limitation as recited in amended claim 1 for "pulling of the free end of the strap means through the connector means from the side of a vehicle steering column" as recited in claim 1.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 3-6, 8-14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicant is attempting to invoke 112 6th paragraph, but in doing so incorrectly has made the scope of the claimed

invention unclear. . The Examiner will reserve most discussion of the 112 6th paragraph issue for the response to arguments section below. However, claims 1, 4, 11, and 16, have been amended in an attempt to invoke 112 6th paragraph to include the limitation "strap means". This does not clarify the issue, since the word "strap" imparts structure. It is unclear what is intended by the addition of "means" to the term strap". Claims 3, 4, 6, and 14 each respectively recite "the strap". Because of the amendment to "strap means" there is no longer antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 3, and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Mouws (US 6,203,055.) Mouws teaches a vehicle air bag arrestor (1) mountable on a steering column carrying a steering wheel (7) having an air bag. The arrestor includes an enclosure with an open and closed end, and further includes attachment means including a strap (3) and a connector means (loops 9) that receive the free end of the strap and connect with the hook (5) for releasably tightening the strap and the enclosure using a single hand pulling of the free end of the strap through the connector means from a side of the vehicle steering column. It is noted that it continues to be the Examiner's position that claim 1 fails to invoke 112 6th paragraph, the reasons for which will be discussed in the response to arguments below. Additionally, the connector means of the attachment means of Mouws can be operated by one hand and since the

Art Unit: 3616

strap is wrapped around the steering column includes pulling from the side of the steering column at least part of the time.

Claim Rejections - 35 USC § 103

8. Claims 11-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouws (US 6,203,055 B1.) Mouws is discussed above and discloses a tightening strap but does not disclose ballistic grade nylon. It would have been obvious to one having ordinary skill in the art at the time of the invention to make the cord out of ballistic grade nylon, so as to provide a cord of sufficient strength, and since it has been held to be within the general skill level of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

9. Claims 4-6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

10. Applicant's arguments filed May 17, 2004 have been fully considered but they are not persuasive. First of all, regarding the discrepancy noted between paragraph 6 and 9 of the Office Action, this is clearly a typographic error on the part of the Examiner. It is unclear why the Applicant would claim 7 in independent form, since the Examiner has previously rejected this claim and all the limitations found there, and the Applicant has

Art Unit: 3616

additionally revised claim 1 in an attempt to amend around these limitations. However, since the typographic error was on the part of the Examiner, this action will not be final.

11. Regarding claim 1, this claim does not evoke 112 6th. If it did, then the Examiner would not only be required to, as the Applicant asserts on page 8, consider "the function of the attachment means including the strap means and the connector means which are arranged for single or one hand operation" but would also in fact be required to look to the specification and the specific structure that performs this function. However, the Examiner has considered the functional limitations, and the device of Mouws would perform the claimed function, as noted above.

12. Claim 1 does not follow 112 6th guidelines because it fails the 3-prong analysis, in that there is recited structure, material and acts for achieving the specified function. The "attachment means" include structure in the form of the strap means and the connector means. The strap means include structure (the strap) and the "connector means" include acts (essentially the rest of the claim are the acts associated with the connector means.) While this functional recitation has been given patentable weight it is the Examiner's position that the device of Mouws performs as broadly recited. Regarding the discussion of the confined space and how it would "typically work" these limitations are not in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

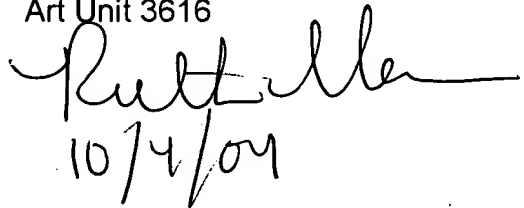
Art Unit: 3616

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI
10/04/04

Ruth Ilan
Primary Examiner
Art Unit 3616



10/4/04